

REMARKS

This is a full and timely response to the non-final Office Action of September 30, 2008.

By the present Amendment, claims 1, 14 and 27-31 have been amended. No new matter has been added. Reconsideration and allowance of the application and all presently pending claims are respectfully requested.

As disclosed in the specification of the presently pending application (see U.S. Publication No. 2004/0242309), the present invention provides, among other things, an advanced, robust lottery transaction system that gives retailers (e.g., lottery agents), lottery distributors and lottery service providers more control, greater selection and greater interactivity with the system. For example, a lottery distributor can not only offer a range of games that changes over time, but can choose which games to offer from an ever-changing menu of game options over a variety of device types. See Abstract and paragraph 0007. Further, third party application developers can provide new applications and updates for their current applications. See, for example, paragraphs 0025 and 0031-0034 of the present application and related drawings. Third party application providers can integrate their applications using the top application layer of the lottery management and transaction processing system, thereby providing users such as the lottery agent with the ability to better manage game selection and transaction processing via the POS terminal, for example. See Fig. 4 and related discussion.

Claim 1 has been amended to recite that the device includes a plurality of third party application providers, and wherein the available lottery games include third party game applications provided from the plurality of third party application providers via the network. Support for these amendments can be found, for example, in the Abstract and paragraphs 0007 and 0031-0036, for example.

In the Office Action of September 30, 2008, the Examiner had cited U.S. Patent No. 6,267,670 to Walker et al. (hereafter, "Walker") as showing "at least on third party game application which can be selected by a user of the first POS terminal", and further interpreted Walker as a third party application because "neither the customer nor the grocery store is a party to Walker directly" (see pages 3-4 of Office Action). The cited portion of Walker (column 6, lines 24-31) states:

The POS terminal 30 also includes a data storage device 36, in which transaction processor instructions are stored. These instructions can be read by and executed by the CPU 31, enabling the POS terminal 30 to process a variety of transaction types. By way of example, these transaction types may include "quick-pick" lottery tickets, lottery tickets other than "quick-pick" tickets and merchandise transactions.

Applicant submits that this portion of Walker, and indeed the entirety of Walker, is devoid of any reference to a plurality of third party application providers providing lottery game applications by a network as claimed in Claim 1. Accordingly, and because Walker does not teach each and every element of the invention as claimed, there can be no rejection based on 35 U.S.C. § 102.

For a prior art reference to anticipate under 35 U.S.C. § 102, the prior art reference must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements “arranged or combined in the same way as in the claim.” *Net MoneyIN Inc. v. VeriSign Inc.*, 88 USPQ2d 1751, 1759 (Fed. Cir. 2008). Applicant respectfully submits that Walker does not do so with respect to claim 1.

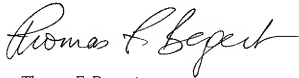
Applicant further submits that Walker cannot be combined with Menon, Dosh or any other reference of record to obviate the pending claims.

As independent claims 14 and 27-31 incorporate recitations similar to amended claim 1, Applicant submits that these claims are similarly allowable over Walker, considered individually or in combination with any other reference of record. Applicant therefore respectfully submits that the invention as presently claimed is not disclosed or suggested by the prior art of record. Applicant further submits that each of the dependent claims is similarly allowable as being dependent from an allowable independent claim.

Based on the above amendments and remarks, Applicant submits that the present application is now in condition for allowance, and a prompt notice to that effect is appreciated. Should there be any outstanding issues requiring discussion in connection with this response specifically or the present application in general, the Examiner is invited to contact Applicant's undersigned representative at the address and phone number provided below.

A petition for three-month extension of time is being submitted along with the required fees. To the extent additional fees are due, the Commissioner is hereby authorized to charge Deposit Account No. 50-0766 in the amount of the required fees, but not to include the issue fee.

Respectfully submitted,
WILLIAMS MULLEN, PC

A handwritten signature in black ink, appearing to read "Thomas F. Bergert". The signature is fluid and cursive, with the first name "Thomas" being more prominent than the last name "Bergert".

Thomas F. Bergert
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